

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>03-</u>
v.	:	DATE FILED: _____
EDWARD V. KELLOGG	:	VIOLATIONS: 18 U.S.C. § 1341 (Mail fraud - 34 Counts)

INDICTMENT

COUNTS ONE THROUGH THIRTY-FOUR

THE GRAND JURY CHARGES THAT:

1. From in or about April 1998, through in or about July 2000, in the Eastern District of Pennsylvania and elsewhere, defendant

EDWARD V. KELLOGG

devised and intended to devise a scheme to defraud, and to obtain money and property by means of false and fraudulent pretenses, representations and promises, to customers of Johnston Laboratories, Inc., by creating and billing customers for false and fraudulent environmental test reports.

THE DEFENDANT AND JOHNSTON LABORATORIES, INC.

At all times relevant to this indictment:

2. Defendant EDWARD V. KELLOGG was the President, Quality Control Officer and owner of Johnston Laboratories, Inc., located at 608 Market Street, New Cumberland, Pennsylvania, and was engaged in the business of providing analytical testing of environmental samples, including water and wastewater samples, in order to determine the presence and concentration of contaminants. Following the analytical testing, defendant EDWARD V. KELLOGG caused Johnston Laboratories, Inc., to prepare and send by United States mail environmental test reports to customers.

3. Defendant EDWARD V. KELLOGG was a chemist who possessed a Bachelor of Arts Degree in Biology, and a Masters in Business Administration (MBA), and who had completed numerous graduate courses in chemistry.

4. Defendant EDWARD V. KELLOGG, through his company Johnston Laboratories, Inc., provided environmental testing services and reports to numerous customers, including municipalities and business entities required to comply with environmental laws and regulations administered by the United States Environmental Protection Agency (EPA) and the Pennsylvania Department of Environmental Protection (PA DEP).

5. These customers relied upon defendant EDWARD V. KELLOGG for his expertise and experience in performing environmental testing and analysis, and to provide truthful and accurate environmental test reports so that these customers could comply with environmental laws and regulations.

6. Among the tests which customers ordered from Johnston Laboratories, Inc. were tests for Volatile Organic Chemicals (VOC), a contaminant whose presence in water is regulated by EPA and PA DEP. Many customers of Johnston Laboratories, Inc. were required to accurately report VOC environmental testing methods and test results to the PA DEP and EPA. EPA method 601/602 tested for approximately 56 analytes (chemicals), whereas EPA method 624 only tested for approximately 30 analytes (chemicals).

7. VOC testing determines the presence and levels of various volatile organic chemicals in water and wastewater samples taken from monitoring wells and wastewater treatment facilities. VOC testing for the existence and levels of contamination in wells, which monitor the underground water table, is important because the underground water table may be a source of drinking water. VOC testing is important for wastewater because wastewater may be discharged into rivers and streams, which affect fish and wildlife, and potentially contaminate a source of drinking water.

DEFENDANT'S FRAUDULENT SCHEME

It was part of the scheme that:

8. Defendant EDWARD V. KELLOGG caused the preparation of environmental test reports for customers of Johnston Laboratories, Inc., which reports falsely and fraudulently claimed to represent the true results of VOC testing on samples taken from these customers' monitoring wells, industrial pre-treatment facilities, and wastewater treatment plants. These test reports were false and fraudulent in that the tests purported to contain the results of VOC testing performed according to EPA method 601/602, when in fact, as defendant KELLOGG knew, this method of VOC testing had not been performed, and the results stated in the reports were fabricated. Instead, as defendant KELLOGG knew, VOC testing had been performed only under the less inclusive EPA method 624.

9. From in or about May 1998 through in or about March, 1999, as defendant EDWARD V. KELLOGG knew, Johnston Laboratories, Inc. did not possess the equipment in operating condition necessary to perform VOC testing under EPA method 601/602.

10. From in or about May 1998 through in or about March, 1999, as defendant EDWARD V. KELLOGG knew, Johnston Laboratories, Inc. contracted out VOC testing and analysis to another environmental testing laboratory, Hydro-Analysis Associates, Inc. (Hydro-Analysis). Defendant KELLOGG also knew that Hydro-Analysis could not and did not perform VOC testing under EPA method 601/602, as Johnston Laboratories Inc.'s customers required, but instead used EPA method 624.

11. Defendant EDWARD V. KELLOGG engaged in a continuous and systematic scheme of fraudulent conduct relating to environmental VOC testing and results by:

- a) causing test reports to be sent to customers which falsely and fraudulently stated that VOC testing had been performed using EPA method 601/602, as ordered by the customers;

- b) causing test reports to be sent to customers which contained false, fraudulent and fictitious entries of data to conceal the fact that different and less inclusive VOC testing had been performed than what the customers had ordered;
- c) causing the delivery by United States mail of false and fraudulent environmental test results;
- d) causing bills for payment to be sent to customers for testing which was never performed and for results which were fabricated; and
- e) causing customers to pay these false bills.

12. From in or about May 1998 through in or about March 1999, defendant EDWARD V. KELLOGG caused Johnston Laboratories, Inc., to falsely and fraudulently bill customers for approximately \$9,722 for results of environmental VOC analyses and testing which were either never performed, or which were fraudulent and not performed according to the EPA methods ordered by the customers and stated in the reports.

13. In or about July 2000, defendant EDWARD V. KELLOGG attempted to conceal the fraudulent scheme by directing another person known to the grand jury to withhold relevant documents from federal investigators.

14. On or about the dates listed below, in the Eastern District of Pennsylvania and elsewhere, defendant

EDWARD V. KELLOGG,

having devised and intending to devise the scheme to defraud and to obtain money from the customers of Johnston Laboratories, Inc., by preparing false and fraudulent VOC environmental test reports and billing customers for these reports, and for the purpose of executing the scheme and attempting to do so, knowingly caused to be delivered by mail according to directions

thereon, the following mail matter:

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
1	Primex Technologies	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/15/98
2	Primex Technologies	Johnston Laboratories environmental report mailed from New Cumberland, PA to Primex Technologies in Red Lion, PA for VOC analysis reporting EPA Method 601/602, sample #'s 37247 - 37249	5/29/98
3	Primex Technologies	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories for VOC analysis using EPA Method 624	5/15/98
4	Primex Technologies	Johnston Laboratories environmental report mailed from New Cumberland, PA to Primex Technologies in Red Lion, PA for VOC analysis reporting EPA Method 601/602, sample #'s 37250 - 37254	6/1/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
5	Primex Technologies	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/1/98
6	Primex Technologies	Johnston Laboratories environmental report mailed from New Cumberland, PA to Primex Technologies in Red Lion, PA for VOC analysis reporting EPA Method 601/602, sample #'s 37970 - 37972	6/9/98
7	Primex Technologies	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/12/98
8	Primex Technologies	Johnston Laboratories environmental report mailed from New Cumberland, PA to Primex Technologies in Red Lion, PA for VOC analysis reporting EPA Method 601/602, sample #'s 38825 - 38832	6/17/98
9	Groundwater Services (GSI)	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/15/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
10	Groundwater Services (GSI)	Johnston Laboratories environmental report mailed from New Cumberland, PA to Groundwater Services in Mechanicsburg, PA for VOC analysis reporting EPA Method 601/602, sample # 37295	6/1/98
11	Advanced Coating Technology	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/15/98
12	Advanced Coating Technology	Johnston Laboratories environmental report mailed from New Cumberland, PA to Advanced Coating Technology in Mechanicsburg, PA for VOC analysis reporting EPA Method 601/602, sample # 36714	6/8/98
13	KD Tool	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/3/98
14	KD Tool	Johnston Laboratories environmental report mailed from New Cumberland, PA to KD Tool in Lancaster, PA for VOC analysis reporting EPA Method 601/602, sample # 's 38457 - 38468	6/9/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
15	KD Tool	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/18/98
16	KD Tool	Johnston Laboratories environmental report mailed from New Cumberland, PA to KD Tool in Lancaster, PA for VOC analysis reporting EPA Method 601/602, sample # 's 39271 - 39276	7/15/98
17	Groundwater Services (GSI)	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/8/98
18	Groundwater Services (GSI)	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	7/7/98
19	Groundwater Services (GSI)	Johnston Laboratories environmental report mailed from New Cumberland, PA to Groundwater Services in Mechanicsburg, PA for VOC analysis reporting EPA Method 601/602, sample #'s 38390 - 38393	7/8/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
20	Groundwater Services (GSI)	Johnston Laboratories environmental report mailed from New Cumberland, PA to Groundwater Services in Mechanicsburg, PA for VOC analysis reporting EPA Method 601/602, sample #'s 38390 - 38393	10/1/98
21	Appleton Papers	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/01/98
22	Appleton Papers	Johnston Laboratories environmental report mailed from New Cumberland, PA to Appleton Papers in Camp Hill, PA for VOC analysis reporting EPA Method 601/602, sample # 's 37978 - 37979	6/30/98
23	Bruin Lagoon-DEP	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/15/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
24	Bruin Lagoon -DEP	Johnston Laboratories environmental report mailed from New Cumberland, PA to Bruin Lagoon - DEP in Bruin Borough, PA for VOC analysis reporting EPA Method 601/602, sample # 's 36837 - 36848	7/13/98
25	Lower Allen Authority	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/18/98
26	Lower Allen Authority	Johnston Laboratories environmental report mailed from New Cumberland, PA to Lower Allen Authority in Lower Allen Township, PA for VOC analysis reporting EPA Method 601/602, sample # 's 39235 - 39236	7/24/98
27	Reich's Ford Landfill, Board of County Commissioners	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/26/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
28	Reich's Ford Landfill, Board of County Commissioners	Johnston Laboratories environmental report mailed from New Cumberland, PA to Reich's Ford Landfill in Frederick, MD for VOC analysis reporting EPA Method 601/602, sample # 's 37591 - 37592	7/24/98
29	Reich's Ford Landfill, Board of County Commissioners	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/29/98
30	Reich's Ford Landfill, Board of County Commissioners	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	6/1/98
31	Reich's Ford Landfill, Board of County Commissioners	Johnston Laboratories environmental report mailed from New Cumberland, PA to Reich's Ford Landfill in Frederick, MD for VOC analysis reporting EPA Method 601/602, sample # 's 37913 - 37917, and 38032 - 38044	8/17/98
32	Reich's Ford Landfill, Board of County Commissioners	Hydro-Analysis environmental report mailed from Kutztown, PA to Johnston Laboratories in New Cumberland, PA for VOC analysis using EPA Method 624	5/29/98

<u>COUNT</u>	<u>JOHNSTON LABORATORIES CUSTOMER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
33	Reich's Ford Landfill, Board of County Commissioners	Johnston Laboratories environmental report mailed from New Cumberland, PA to Reich's Ford Landfill in Frederick, MD for VOC analysis reporting EPA Method 601/602, sample # 's 37805 - 37810	10/29/98
34	Lower Allen Township Authority	1998 Industrial Pretreatment Annual Report mailed from Lower Allen Township, PA to EPA, Region III, in Philadelphia, PA	3/23/99

All in violation of Title 18, United States Code, Sections 1341 and 2.

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney